

Chapter-10: By way of summing up

10.1 Recent trends in public response:

The State has witnessed a heightened wave of people's resistance all over against the indiscriminate acts of land acquisition and consequent displacement of the people in the last decade (1996–2006). As a matter of fact, all the 30 districts were rocked by such resistance movements. But we present below a list of salient movements witnessed in 26 districts. The remaining 4 districts such as Nayagr, Boudh, Kandhamal and Sonapur did also have their share of the State-wide wave of anti-displacement agitation. But the issues being localized in nature, we omitted them from enlistment.

Table 10.1

District-wise List of Major Resistance Movements in Orissa centring round Displacement and Related Issues: 1996-2006

Sl.	District	Project or Activity, the cause of protest	Status of Projects (completed ongoing or proposed)	Issues raised	Platform of resistance
1.	Angul	NALCO	Completed	-Pending R&R - Pollution	Displaced families and local people
		Coal Mines	Completed, ongoing and proposed	Do	do
		Thermal Power Plants	Completed, ongoing and proposed	Do	do
		Fertiliser Plant	Completed	Do	do
		Zindal Power Plant	Ongoing	Do	do
2.	Balasore	Kirtania Port at Subarnarekha mouth	Proposed	Threat of displacement and acquisition of fertile land	Local people & NGOs
3	Bhadrak	Dhamra Port and Bhadrak-Dhamra Rail Link	Ongoing	-Unsatisfactory R&R Package	-Project Displaced Families
4.	Bargarh	Command Area of Hirakud Dam & its canal system	Completed	-Diversion of irrigation water of Hirakud to industries -Degraded condition of canals	Farmers of Bargarh district
5.	Bolangir	Lower Suktel Project	Ongoing	-Protest against displacement -Unsatisfactory R&R	Displaced families and local people
		Saintala Ordnance Factory	Completed	-Pending R&R	Displaced families
6.	Cuttack	-Clearing of huts and constructions from roadside land and pavements in the city. - Construction of Tata Thermal Power Plant at Naraj	Ongoing	-Protest against eviction of poor slum dwellers from the encroached land	Slum-dwellers' Associations

7.	Dhenkanal	Bhushan Steel & Strips plant at Meramundali	Completed	- Unsatisfactory R&R benefits - Protest against atrocities by company's security personnel	-Project Displaced Families - Local people's organizations
8.	Deogarh	Resettlement of Oustees of Rengali and Gohiri Dams in Deogarh	Completed	- Pending and Unsatisfactory R&R benefits	-Project Displaced Families - Local NGOs
9.	Gajapati	Cheligada hydel Project Proposed	Proposed	Threat of displacement	Local people
		Harabhangi Irrigation Project	Completed	-Unsuitable R&R package	Displaced families and local people
10.	Ganjam	Golabandha Missile Testing at Gopalpur	Completed	600 fisher-families were resettled in the inhospitable conditions of New Bauxipalli village against their choice of Agripalli	Fishermen's Organisation
		TATA Steel Plant at Gopalpur	Withdrawn	-Unsatisfactory R&R package - Police atrocity	The Displaced & land loser families
		Atomic Power Plant at Patisonapur	Proposed	2 nd displacement of some families already displaced due to TISCO Project	Displaced families and Local People
11.	Jagatsinghpur	POSCO Steel Plant and Captive Port at Jatadhar Mouth	Proposed	- Protest against Govt's move to evict villagers from 3 GPs - Protest against hand over of a fertile area and sea mouth to POSCO	Displaced Families, Local People, NGOs and concerned PRIs
		Fertiliser Plant by PPL, Paradip	Completed	- Pollution of water streams and threat to fishery resources	Local people and NGOs
		Essar Steel Company	Ongoing	Unsatisfactory compensation against land	Local people
		Oswal Chemicals and Fertilisers Co.	Completed and now run by IFFCO	Pollution of water, air and soil of surrounding areas	Local people of Jagatsingpur and Kendrapara districts
12.	Jajpur	Kalinga Nagar Industrial Complex	Ongoing	-Protest against fraudulent R&R package -Protest Against police atrocities - Protest against bad condition in Nilachal Ispat Nigam Resettlement Colony	Local people's organizations, and civil society groups of the Orissa, India and world
13.	Jharsuguda	Steel & Iron Industries, Coal Mining, and Thermal Power Units	Completed, Ongoing and proposed	- Unsatisfactory R&R package, - Severe pollution - Violation of PESA provisions	-Displaced families, - Local people - NGOs & Environmentalists
14.	Kalahandi	Vedanta Alumina Plant and Mining	Ongoing	-Protest against possible damage to Niyamgiri Hills due to bauxite mining - Bad condition in resettlement Colony -Poor R&R Package	Local people's organizations, and civil society groups of the Orissa, India and world
		Upper Indravati Project	Completed	- Unsatisfactory and Pending R&R benefits	Displaced families

15.	Kendrapara	Ratnagiri Buddhist Monastery	Ongoing	-Protest against displacement of 162 families living in the vicinity of the monastery	Local villagers
16	Keonjhar	Mittal Steel Plant	Proposed	Protest against land acquisition	Local people's organisations
		Mining Leases to various companies	Some Completed and some others ongoing	-Protest against improper R&R package -Protest against acquisition of tribal land in violation of PESA - Pollution -Bad, jammed and unsafe Roads	-Local people's organizations including Keonjhar Surakhya Parishad - Political leaders - local NGOs
		License to Sponge Iron Industries and Ore Crusher units	Completed and ongoing	-do-	Local people's organisations
		Mining Lease of Khandadhar Mines	Proposed	Ecological sensitivity of the proposed location	Local people and civil society groups of State & country
17.	Khurda	-Clearing of Street Vendors from roads and pavements in Bhubaneswar city	Ongoing	-Protest against eviction	-Street Vendors' Association
		- Move to evict sex workers and slum-dwellers from Malisahi, Bhubaneswar	Ongoing	Protest against eviction	- Sex Workers Association -Slum-dwellers' Association
		Illegal Occupation of Chilka lake by Land mafia in connivance of the Govt.	Ongoing	- Protest against illegal occupation of Chilka by outside mafia	Local Fisherfolk Association
18.	Koraput	Bauxite Mining of Mali Parbat	Ongoing	- Protest against mining of an eco-fragile area - Unsatisfactory compensation to land losers - Violation of PESA	Local people led by Mali Parbat Surakhya Samiti
19.	Malkangiri	Machhkund, Upper Kolab and Balimela Hydel Projects	Completed	- Pending and unsatisfactory R&R package	Displaced families and NGOs
20.	Mayurbhanj	Eviction of 65 tribal villages from within the Similipal National Park	Proposed	-Protest against displacement	-Local inhabitants of the concerned tribal villages
		Shiva Shakti Sponge Iron Ltd: (SSSIL), Sukruli	Completed	-Protest against large-scale toxic discharge and pollution from the plant	Local villagers under the leadership of Nari Srimayee Samaj (NSS)
21.	Nawarangpur	Settlement of Bangladeshi Refugees on public land at Raigarh	Completed	- Land grabbing from Adivasis and Dalits by Bangladeshi refugee settlers	Local people
		Upper Indravati Project	Completed	-Unsatisfactory and Pending R&R benefits	Displaced families

22.	Nuapada	Sunabeda Wildlife Sanctuary	Completed	-Unsatisfactory and Pending R&R benefits - Protest against the Govt move to evict the villagers from Sanctuary areas - Protest against Atrocities by Forest Officials	-Local people -NGOs
23.	Puri	Vedanta University at Puri-Konark Balukhand	Proposed	- Protest against the hand-over of an ecologically sensitive area to a foreign company	- Local People - NGOs
24.	Rayagada	Utkal Alumina Refinery and Bauxite Mining of Baphlimali Hills	Ongoing	- Protest against mining and industry in an ecologically sensitive PESA area - Pending R&R - Bad condition in resettlement colony - Protest against police atrocities	Prakrutik Sampad Surakhya Parishad
25.	Sambalpur	Hirakud Multi-purpose Dam	Completed	-pending R&R -Diversion of irrigation water for industries	-Farmers Associations - People of the State
26.	Sundargarh	Sponge Iron Plants	Completed	-Protest against improper R&R package -Protest against acquisition of tribal land in violation of PESA - Pollution -Bad, jammed and unsafe Roads	-Displaced families - Local people - NGOs
		Bhushan Coal Mining Project in Hemgir Tehsil	Proposed	-Protest against acquisition of tribal land in violation of PESA	Local people's organizations
		Mining Lease of Khandadhar	Proposed	- Ecological sensitivity of the proposed location	Local people's organizations
		Rourkela Steel Plant	Completed	-pending R&R - Pollution	Project Displaced Families

It is seen that unlike in the past years when the people either abjectly surrendered before the Government's notification for land acquisition or put up mild resistance against such move yielding to the much trumpeted logic of 'public purpose', the decade from 1996 to 2006 coincided with systematic, organized and determined protest movements questioning the very legitimacy of the eminent domain of the State and its legal arm LA Act 1894. Such movements though mainly conducted by the people who directly bore the brunt of displacement drew support and solidarity from the general mass of people including civil society groups, media persons, intelligentsia and academia. The accumulated hatred of people against the State patronage of foreign and private companies had reached to such an acute stage that some apparent acts of militancy, such as road blockade by the tribals at Kalinga Nagar, kidnapping and detention of POSCO officials by the agitating people and installation of 'no entry' barricades in several villages across the State were openly sympathized with by the public at large. Another phenomenon, a novel one came to the fore in this decade. The very Government who fired upon the tribals and killed them at Kalinga Nagar paid solemn homage to their departed souls on the floor of Assembly according thereby an honorable status of 'martyrs' to them. Above all, this decade also witnessed re-surfacing of the long forgotten agitations of the displaced people, and that too in an organized manner, around the unsatisfactory and pending compensation in projects

like Hirakud, Machhkund, Upper Indravati and Rengali Dams and Rourkela Steel Plant, and the Government was found at least on a verbal plane to be conciliatory towards the agitating groups.

10.2 Anti-displacement activists killed by Police firing:

The last decade also witnessed several gruesome incidents in which the civilians fighting against displacement succumbed before police firing. The victims mostly belonged to Adivasis and Dalits and included women too. The following Box provides the particulars of the incident and casualty.

Box- 10.1

Dalits, Tribals & Women protesting on land issues killed by Orissa Police during 1999-2006

- *7 August 1997, two women processionists were killed as a result of the police firing on a mass rally at Sindhigaon protesting against the land acquisition for Tata Steel Company at Gopalpur-on-sea*
- *On 30 May 1999, the police firing on fishermen protesting against the land-grabbing mafia at Chilika Lake in Khurda district led to death of five persons belonging to SC;*
- *On 30 December 1999, the police shot dead nine persons that included eight tribals at Mandrabaju in Gajapati district;*
- *On 16 December 2000 December the police firing at village Maikanch led to death of three tribals protesting against the UAIL's bauxite mining and alumina factory in Kashipur, Rayagada district;*
- *In two successive incidents in October-November 2001, five tribals were killed by the police firing in Raighar area of Nowrangpur district in connection with their protest on land related issues; and*
- *On 2 January, 2006 the police killed 12 tribals protesting the forcible erection of a boundary wall on their land for Tata Steel Plant at Kalinga Nagar in Jajpur district; another tribal injured in the incident died later in the hospital; the palms and private parts of some of these dead persons were chopped off by the police.*

[Source: Samantra Prafulla, President Loka Shakti Abhijan Orissa Unit, Press release at Chennai, 2/2/2006 on 'The Kalinganagar Massacre, tribal land, industrialization and justice in Orissa; and

Das Achyut, Jagatikanara O' Sangramrata Manisa struggling people) an Oriya book, published by Sikshasandhan, Bhubaneswar, 2007, P-163]

10.3 EIA Notification 2006- A new tool for the displaced:

The Ministry of Environment and Forests, Government of India published the Environment Impact Assessment Notification, 2006 on 14th Sept. 2006, which superseded the EIA Notification, 1994. As a matter of fact, the new notification contains so many provisions, which if properly implemented at Governmental level and made use of by the concerned populations can ensure the much needed transparency in the process of environmental clearance to the project proposals involving displacement and pollution. As per the old Notification, there was no compulsion for the concerned authorities to hold the public hearing in an open forum, to elicit the opinions/objections of all the persons interested to depose before the hearing panel, and to allow the recording of the opinions and objections so raised by the participants by any non-official media. The old notification didn't have also any provision for reading out of the draft

proceedings before the participants on the day of hearing itself. Nor did it contain any direction to circulate the proceedings of the public hearing and invite objections if any on the same from among the people at concerned GP level within specified days of the public hearing so held. Above all, the old notification was silent on the implications of the opinions/objections of the public reflected in course of the public hearing process for the issue of environmental clearance, while the new notification makes it mandatory for the project proponent to meet the objections raised by the public.

10.4 Features of EIA Notification 2006:

The new features as contained in EIA Notification-2006, especially in regard to the process of EIA and public hearing and its implications for issue of environmental clearance in favour of proposal can be summarised as follows:

- **Preparation and Submission of EIA Report:** The Applicant shall enclose with the letter of request both hard copies and soft (electronic) copies of the draft EIA Report with the generic structure given in Appendix III including the Summary Environment Impact Assessment report in English and in the local language, prepared strictly in accordance with the Terms of Reference. Simultaneously the applicant shall arrange to forward copies, one hard and one soft, of the above draft EIA Report along with the Summary EIA report to the Ministry of Environment and Forests and to the other concerned authorities or offices, within whose jurisdiction the project will be located:

- **Venue:** The Public Hearing shall be arranged in a systematic, time bound and transparent manner ensuring widest possible public participation at the project site or in its close proximity by the concerned State Pollution Control Board (SPCB)

- **Circulation of EIA Report :** On receiving the draft Environmental Impact Assessment report from the project proponent following authorities shall arrange to widely publicize it within their respective jurisdictions requesting the interested persons to send their comments to the concerned regulatory authorities. They shall also make available the draft EIA Report for inspection electronically or otherwise to the public during normal office hours till the Public Hearing is over.

- (a) District Magistrate/s
- (b) Zilla Parishad or Municipal Corporation
- (c) District Industries Office
- (d) Concerned Regional Office of the Ministry of Environment and Forests

- The Ministry of Environment and Forests shall promptly display the Summary of the draft Environmental Impact Assessment report on its website, and also make the full draft EIA available for reference at a notified place during normal office hours in the Ministry at Delhi.

- The SPCB concerned shall also make similar arrangements for giving publicity about the project and make available the Summary of the draft Environmental Impact Assessment report (prepared as per the format given in Appendix III A) for inspection in select offices or public libraries or Panchayats etc. They shall also additionally make available a copy of the draft Environmental Impact Assessment report to the above five authorities/offices viz, Ministry of Environment and Forests, District Magistrate etc.

- **Notice of Public Hearing:** The Member-Secretary of the concerned SPCB after finalising the date, time and exact venue for the conduct of public hearing shall advertise the same in one major National Daily and one Regional vernacular Daily. A minimum notice period of 30(thirty) days shall be provided to the public for furnishing their responses;

- The advertisement shall also inform the public about the places or offices where the public could access the draft Environmental Impact Assessment report and the Summary Environmental Impact Assessment report before the public hearing.

- **Conduction of Public Hearing:** The District Magistrate or his or her representative not below the rank of an Additional District Magistrate assisted by a representative of SPCB or UTPCC, shall supervise and preside over the entire public hearing process.

-The SPCB shall arrange to video film the entire proceedings. A copy of the videotape or a CD shall be enclosed with the public hearing proceedings while forwarding it to the Regulatory Authority concerned.

-**Proceedings-** The attendance of all those who are present at the venue shall be noted and annexed with the final proceedings. There shall be no quorum required for attendance for starting the proceedings. A representative of the applicant shall initiate the proceedings with a presentation on the project and the Summary EIA report. Every person present at the venue shall be granted the opportunity to seek information or clarifications on the project from the Applicant. The summary of the public hearing proceedings accurately reflecting all the views and concerns expressed shall be recorded by the representative of the SPCB and read over to the audience at the end of the proceedings explaining the contents in the vernacular language and the agreed minutes shall be signed by the District Magistrate or his or her representative on the same day and forwarded to the SPCB concerned.

- **Circulation of Proceedings:** A Statement of the issues raised by the public and the comments of the Applicant shall also be prepared in the local language and in English and annexed to the proceedings. The proceedings of the public hearing shall be conspicuously displayed at the office of the Panchyats within whose jurisdiction the project is located, office of the concerned Zilla Parishad, District Magistrate ,and the SPCB. The SPCB shall also display the proceedings on its website for general information. Comments, if any, on the proceedings, which may be sent directly to the concerned regulatory authorities and the Applicant concerned.

(Source: Appendix-IV of EIA Notification-2006 dated 14 September, 2006, Ministry of Environment and Forests, Govt of India)

Environmental Clearance:

- After completion of the public consultation, the applicant shall address all the material environmental concerns expressed during this process, and make appropriate changes in the draft EIA and EMP (Environment Management Plan). The applicant may alternatively submit a supplementary report to draft EIA and EMP addressing all the concerns expressed during the public consultation.

- An Expert Appraisal Committee shall make a detail scrutiny of the application and other documents like the Final EIA report, outcome of the public consultations including public hearing proceedings for grant of environmental clearance. This appraisal shall be made in a transparent manner.

- The decision of the regulatory authority after considering the views of the Expert Appraisal Committee or State Level Expert Appraisal Committee concerned shall be final and conveyed to the applicant concerned.

- Deliberate concealment and/or submission of false or misleading information or data which is material to screening or scoping or appraisal or decision on the application shall make the application liable for rejection, and cancellation of prior environmental clearance granted on that basis.

(Source: Paras-7 and 8, EIA Notification-2006 dated 14 September, 2006, Ministry of Environment and Forests, Govt of India)

Post-Environmental Clearance:

- It shall be mandatory for the project management to submit half-yearly compliance reports in respect of the stipulated terms and conditions of prior environmental clearance to the regulatory authority concerned, on 1st June and 1st December of each calendar year.

- All such compliance reports submitted by the project management shall be public documents. Copies of the same shall be given to any person on application to the concerned regulatory authority. The latest such compliance report shall also be displayed on the web site of the concerned regulatory authority.

(Source: Para-10, EIA Notification-2006 dated 14 September, 2006, Ministry of Environment and Forests, Govt of India)

Thus the EIA Notification-2006 provides a legal scope to the people in general and the people likely to be affected in particular to say 'no' to a project if they think that the proposed project would endanger the environment or cause greater social loss to the people and State. It is worth noting here that the EIA Report, around which the process of public hearing shall be organised shall not only deal with the environmental implications, but also provide social impact assessment and R&R action plans along with likely information on likely improvements in the physical and social infrastructure, employment potential, and other tangible benefits. *(Source: APPENDIX III -GENERIC STRUCTURE OF EIA DOCUMENT- EIA Notification-2006 dated 14 September, 2006, Ministry of Environment and Forests, Govt of India)*

The new manner of holding the public hearings as ordained by the new EIA Notification has already been demonstrated in regard to its wholesome potential in giving the people a due voice in the process of environmental clearance for a proposed project. For instance, in the State of Chhatisgarh the anti-displacement movement achieved a victory, when the common people could thwart the move of a private company to expand its steel project entailing further displacement. A Public Hearing was called by the State Govt at Raigarh on 4 August 2007 on the EIA Report for expansion of the existing steel unit of Monnet Ispat and Energy Ltd, where the common people in an organised fashion voiced their strong objection to the said Report pointing out several misinformation that it contained about the field situation. The project consultant present there couldn't answer the queries. The public hearing was cancelled and the Company's expansion proposal shelved. *(Source: Email dated 8th Aug. 07 from Sri Ramesh Agrawal, Raigarh, Chhatisgarh to Chitta Behera, Cuttack, Orissa, and a news item 'EIA for Monnet steel project in Chhatisgarh run into trouble – Report' published on the website of Steel Guru dated 18 Sept. 07).*

10.5 Orissa experience of EIA Notification 2006:

In Orissa however the experience of public hearing organised under the new EIA Notification of 2006 has been a mixed one. The well-known instance of Public Hearing on POSCO project is a case in point. The Orissa Pollution Control Board and Jagatsinghpur district administration organised it in such a messy and arbitrary manner that the local people couldn't express their genuine reactions on the POSCO EIA Report as they were supposed to. The POSCO public hearing was notified by the OSPCB to be held at Kujang on 15th April, 2007. But the manner in which the concerned authorities handled the process thereafter left too many loopholes. It is worth quoting Ms. Madhumita Ray, Programme Manager, Actionaid, an NGO working among the fishing communities, dalits and other marginalised groups in the area since the super-cyclone of 1999, who addressed a letter of complaint to the Central Ministry of Environment and Forests on 12 April, 2007 pointing out the serious lacunae in the public hearing process. In her letter she alleged, "State authorities are liable to share the draft EIA report with affected communities in advance of the public hearing but it has not yet reached the three panchayats concerned. .. The EIA guidelines also state that the public hearing should be arranged at the project site or in its close proximity for ensuring widest public participation. With plans to hold the hearing 25 kilometers away in Kujang, the guidelines are clearly being flouted. Such disregard of due process at best points to ignorance of official procedure and at worst, connivance between the state government and POSCO to manufacture consensus without the consent of those affected.... As the date of the public hearing draws closer, there is also growing anxiety among villagers as an estimated 1000 police are stationed at the venue of the public hearing.. Large numbers of police are marching around the area. In view of the non-compliance of the EIA norms for public hearing by the concerned authorities including State Pollution Control Board, the proposed date of 15th April for public hearing should be postponed.... The Chief Minister of Orissa should take action to ensure that all the concerned authorities of state government fully comply with the norms laid down in the EIA Notification 2006, so as to ensure a proper conduction of the public hearing process relating to POSCO proposed projects." (Source: News item 'ActionAid urges government to intervene on POSCO issue' published on the website of 'OneWorld South Asia' 20 April 2007)

However the Govt went ahead in organising the POSCO public hearing as per its schedule heedless of the complaints raised by several quarters on the procedural deficiencies. The local people who could make it to the venue of the public hearing also raised very many questions on the poor quality of EIA Report and misinformation on which it was based. Several participants also submitted their written objections on the factual defects and deficits of the EIA Report on the day of the hearing. After a few days the OSPCB circulated the proceedings of the public hearing to the Sarpanchs of concerned 3 GPs (Dhinkia, Nuagaon and Garh Kujanga) among others for the information to the villagers (Source: OSPCB Letter No.8950/IND-II-PH-199 dated 18.04.07). The conscious citizens from among the villagers went through the said proceedings but felt dismayed at the manner in which it had omitted the salient objections raised by the participants in course of the public hearing. The proceedings had also contained a 4 page note by the project proponent POSCO, which gave its clarification on the issues raised by various speakers in the public hearing. The said note while not mentioning at all quite many important issues relating to displacement that were raised, dealt with only a few issues and gave a highly sketchy explanation on them. The conscious citizens of the concerned villages therefore prepared a detail note listing their objections on the shortcomings in the proceedings circulated by OSPCB and after obtaining the signatures of the villagers from 3 GPs dispatched to the Ministry of Environment and Forests, GOI with intimation to OSPCB, Chief Minister, District Collector and POSCO India. (Source: Letter dated 25.05.07 from the villagers of Dhinkia, Nuagaon and Garh Kujanga of Jagatsinghpur district addressed to Secretary, Ministry of Environment and Forests, GOI, New Delhi on the Subject: Comments on the Draft Proceedings of Public Hearing in respect of EIA for M/S POSCO India PLtd)

But strangely, the Ministry didn't respond to the above letter of complaint from the villagers. Instead it issued successively environmental clearance in favour of POSCO proposals for both steel plant and marine port. It was further surprising that a letter that carried the environmental clearance for the marine port listed out certain general and specific terms and conditions, and the Specific Condition No. III said, 'All the issues raised in the public hearing report submitted to the Ministry vide letter dated 18.4.2007 should be addressed comprehensively. An action taken report should be submitted to Government of Orissa and Ministry of Environment and Forests within 6 months of the date of receipt of this letter.'" (Source: Letter No. 10-9/2006-IA-III dated 15 May 2007 from the IA-III Division of the MoEF, GOI, New Delhi on the subject 'Environmental Clearance for the construction of a captive marine port proposed by M/S POSCO India Private Ltd at Jatadhar Muhan Creek Confluence near Paradip, District Jagatsinghpur, Orissa). The local people who felt aggrieved by MoEF's abrupt issue of environmental clearance in favour of POSCO without meeting the objections raised by them addressed another letter of protest to the Ministry of E&F, GOI dated 16 August 2007, but didn't receive any response thereto. Now the question arises, should the environmental clearance not have been issued to POSCO proposal only after the objections, which had been raised in the public hearing were met by both POSCO and Government. It won't therefore be wrong to say that an act of issuing clearance first and then asking for compliance to the objections raised in public hearing is like putting the cart before the horse.

As a result of the undue manner in which the process of public hearing and then of environmental clearance for POSCO proposals by both State and Central authorities was handled, the concerned area where the steel plant and marine port are proposed to come up is still marked by serious disturbances and company not able yet to begin any construction work.

It is therefore very much desirable that the State Pollution Control Board and concerned District Administration ought to conduct the process of public hearing in strict accordance with the norms laid down in the EIA Notification-2006 and the MoEF, GOI to issue environmental clearance to a project proposal only after all the objections raised in the public hearing are complied with.

Under the circumstances, it is recommended that-

- *The Orissa State Pollution Control Board should strictly adhere to the procedural norms laid down in EIA Notification-2006 while conducting the process of public hearing on EIA of any project in the State;*
- *Both OSPCB and MoEF, GOI should respond to the objections raised by the members of public at any stage, before or after the public hearing is held;*
- *The MoEF, GOI ought to issue environmental clearance in favour of a project proposal only after the objections raised in course of public hearing process are complied with; and*
- *In the specific context of POSCO, separate public hearings on the concerned project site or in its vicinity be held afresh following due procedure on each of the proposals for steel plant and marine port to elicit and record the opinions/objections of local people. It is important in view of the fact that neither the public hearing held nor the*

environmental clearance issued has followed the norms laid down in the EIA Notification-2006.

10.6 Govt of India's Twin Bills working at cross-purposes:

It is interesting to know that Parliamentary Standing Committee of Rural Development chaired by Sri Kalyan Singh hurriedly advertised on the website of Press Information Bureau dated 3rd Jan. 2008 the texts of two very important Bills i.e. 'The Land Acquisition (Amendment) Bill 2007' and 'The Rehabilitation & Resettlement Bill, 2007' eliciting public opinion on them within 15th Jan. 2008. While the first Bill sought to further and radically amend the LA Act 1894, the second aimed at providing a statutory back-up to the new National R&R Policy 2007 notified in October 2007. Thus a too short interval spanning less than 12 days was allowed for the public to send in their response. Given the brief space of interval only a few informed citizens including the author of this Report (*Chitta Behera*) could submit their views and suggestions on the said Bills. But all of them were unanimously suspicious that the roughshod manner in which the Parliamentary Committee elicited public opinion on the two Bill in 12 days and that too without giving an extensive publicity to them smacked of a great conspiracy partaken by both ruling and opposition parties to somehow get them passed in the Parliament at the earliest. On a close scrutiny it is noticed that the two Bills have been framed in such a way as to remain interlinked in respect of major concerns. For instance, the Section 4 of the LA (Amendment) Bill preemptively provides that the R&R Act, 2007 shall be applied in all cases where there is acquisition of land by the Government; and conversely, Section 2 of the National R&R Bill makes its provisions to remain binding in all cases where there shall be acquisition of land under the Land Acquisition Act, 1894 or any similar Act of the Union or a State for the time being in force. The most important commonality that characterizes both Bills seems to be a retrograde step, that is, as per the R&R Bill in Section 4(1), the social impact assessment, a wholesome provision introduced for the first time, shall be held only when a project involves involuntary displacement of four hundred or more families en masse in plain areas, or two hundred or more families en masse in tribal or hilly areas, DDP blocks or areas mentioned in the Fifth Schedule or Sixth Schedule to the Constitution. It means that if less than 400 families in plain areas or less than 200 families in other areas are displaced, the Government or the concerned land requiring authority shall not have to pass through the rigours of transparency and accountability built into the new R&R Bill. However, it is worth noting that except this single, unwarranted provision the National R&R Bill 2007 is on the whole a great improvement on the National Policy of 2003 and if implemented properly can ensure a great degree of transparency and accountability not only in the process of land acquisition and compensation but also in respect of resettlement and rehabilitation. While the merits of the new National R&R Policy of 2007 as applicable to the corresponding Bill have been dealt at length elsewhere in this Report especially in comparison to Orissa R&R Policy of 2006, it is worthwhile to undertake a closer look at the provisions mooted in the LA(Amendment) Bill, 2007 which is actually the villain of the piece.

10.7 L.A.(Amendment) Bill, 2007 – a new threat:

As already mentioned, the author of the present Report sent in his detail views and suggestions to the Parliamentary Standing Committee on the L.A. (Amendment) Bill 2007. While emphasizing the need for a drastic overhaul of the colonial Act, he however made a thoroughgoing critique of the Bill to show that the Bill if enacted would prove more disastrous to the displaced and affected population than its colonial predecessor. The salient points of the said critique can be summarized as follows:

- (A) **From a reading of Section-1 of the Bill** it appears, the Amendment Bill shall apply only to the projects, which are likely to come up in future. But there are massive backlogs of cases of displacement caused by the past projects, which have not been properly compensated or resettled/rehabilitated, as a result of which sporadic outbursts of protest and agitation have been taking place intermittently all across the country. *In order to take care of the left out class of project displaced/affected persons, the Section-1 of the proposed Amendment Bill should provide for the needed space to address to the unsolved problems and issues of the persons displaced/affected by the past projects, irrespective of whether these are completed or still ongoing.*
- (B) **From a reading of Section-5 (i) of the Bill** it appears that only the land-holding families, the families having tenancy rights and the families covered under the ST and Other Traditional Forest Dwellers (Recognition of Forest Rights) Act, 2006 are entitled to make any claim for compensation. But it is a well-known fact that a large number of landless and marginal farmer families, who are substantially dependent upon common property resources ('Government land' in the official parlance) do get badly affected in terms of livelihood by the acquisition of such land for any development project. *The Bill should therefore put in place appropriate provisions for the general run of landless, occupier ('encroacher' in official parlance) and marginal farmer families to claim compensation in terms of both cash and kind against the loss of their habitation and livelihood caused by the land acquisition in their respective areas.*
- (C) **From a reading of Section-5(v) of the Bill** it appears that though the proposed amendment bill seeks to delete the word 'Company' from the long title and preamble of the Act, it however keeps spacious provision for the land acquisition to be made in favour of the companies in tact and moreover, unlike the existing Act (LA Amendment Act, 1984) where there is a distinct line drawn between the 'public purposes' and 'purposes of company' [Vide Supreme Court Judgement Case No. Appeal (civil) 4843 of 2007, dated 12. 10.2007], the proposed amendment seeks inter alia to project Company's purposes as public purposes, and thereby lands up in a worse position. **Moreover, from a reading of the clause (iii) under its Section-5 (v),** it appears that if a company has directly purchased 70% of the total land required for its project, this fact itself shall suffice to bestow the stamp of 'public purpose' to the proposed project irrespective of the aims and objectives of the project. **Again, from a reading of the clause (vi) under the Section-5,** it appears that any infrastructure project, even if it is proposed by a private company shall be construed as a project for public purposes, and such a provision goes against the spirit of the amendment that proposes to abolish the word 'company' from the long title and preamble of the Act. Thus from a combined reading of the different clauses under Section-5(v) of the Bill, it is revealed that there is a great deal of contradiction between the primacy that the Bill promises to accord to 'public purposes' on one hand and the massive space given for free play to private companies and that too in the name of 'public purposes' on the other. It is again worth quoting the above judgement of Supreme Court, "39. A declaration is to be made either for a public purpose or for a company. It cannot be for both". *It is suggested that in order to ensure congruity between the new title and preamble of the Bill on one hand and its remaining provisions on the other, the above mentioned provisions under Section-5 should be so reworded that the old distinction between 'public purposes' and 'purposes of a private company' be made explicit and each be treated in respect of the procedure for land acquisition and allied matters in a separate and distinct manner.*

(D) The Section-5 (v) of the Bill mentions inter alia, “(iii) the provision of land for any other purpose useful to the general public, for which land has been purchased by a person under lawful contract to the extent of seventy per cent but the remaining thirty per cent of the total area of land required for the project as yet to be required.” From this it is not clearly understood, whether the above-mentioned ‘seventy percent’ is out of the total land required (private land plus government land) or only out of the total private land. Of late the trend followed by most State Governments in choosing the project sites for private companies is such that out of the total land required for a private company the bigger portion is selected from the Government land while minimising the need for acquisition of private land. And the State Governments/Companies don’t pay any compensation or other benefits to the local people for the acquisition of such Government land. *It is therefore indispensable that the Bill make it clear as to whether the said 70% is in reference to the total private land to be acquired or to the total land consisting of both private land and Govt land.*

(E) The Section 6 of the Bill says, ‘Throughout the principal Act, the words “or for a company” along with their grammatical variations, shall be omitted’. But as a matter of fact, the acquisition of land for companies is not excluded from the purview of the Bill as such. The Section 5(v) bears the following mention, ‘*Explanation* —The word “person” shall include any company or association or body of individuals, whether incorporated or not’. It clearly means that the Government shall continue to undertake land acquisition in favour of private companies. If that be so, there should be separate and distinct procedure laid down in respect of land acquisition for companies, just as there is one such procedure mentioned under Chapter-VII of the principal Act and Land Acquisition (Companies) Rules, 1963 made there-under. *Thus there is no justification in saying that the words “or for a company” be omitted altogether from the Act.*

(F) The Section 8 of the Bill says that social impact assessment shall be conducted ‘whenever the appropriate Government intends to acquire land for public purpose involving physical displacement of— (i) four hundred or more families *en masse* in plain area; or (ii) two hundred or more families *en masse* in tribal or hilly areas or Desert Development Programme blocks or areas specified in V Schedule or Schedule VI to the Constitution’. There is very much a possibility that a project is spread in a vast area and has massive potential to adversely impact otherwise the life and livelihood of the people living in the vicinity of the project site, but the number of families to be displaced by it is smaller than the abovementioned limits. In such cases it is not wise at all to forego the need for conducting a social impact study. *So there is no justification at all to specify the definite numbers of displaced families as a condition for undertaking of social impact study.*

(G) From a reading of the Section 9 of the Bill it appears that like the existing Land Acquisition Act, 1894 as amended in 1984, the current Bill retains the Government’s arbitrary power to issue the preliminary notice for land acquisition under Section 4(1) of the Act without having to seek the consent of the people who are going to be displaced and/or affected by the proposed project. As the Bill stands now, this arbitrary power shall continue to be exercised henceforward even when the land is to be acquired for a private company garbed under the rubric ‘public purpose’. It is well known that such a provision

has served as the main cause for provoking people's resentment and agitation against the land acquisition by the Government, even when the proposal for such land acquisition was meant for a good cause. In the above quoted judgment of the Supreme Court it was held inter alia that the issue of preliminary notice under Section 4(1) for land acquisition must be preceded by the fulfillment of conditions and obligations under the Part-VII of Land Acquisition Act, 1894 and Land Acquisition (Companies) Rules, 1963 made thereunder (vide Para 45). Such conditions stipulate that the Collector must conduct an enquiry to ensure that the concerned company has made the best of its efforts to locate the alternate sites but failed, the land to be acquired is not good agricultural land, the reasonable price shall be paid for the land to be acquired, and moreover, based upon the Collector's report the Land Acquisition Committee at the State level must give their approval for the acquisition of the proposed land. ***So the Bill should incorporate a provision saying that where the land acquisition is proposed to be made for a private company, the notification under Section 4(1) of the principal Act should be preceded by the fulfillment of the conditions and obligations similar to those laid down in the principal Act and Land Acquisition (Companies) Rules, 1963.***

(H) From a reading of Section 10 of the Bill it appears that Part-VII, which deals with 'acquisition of land for companies', shall be altogether dropped from being mentioned under Section-6 of the principal Act. Section 6 of the principal Act says that a declaration shall be made whether the land in question is required for a public purpose or for the purposes of a company. We have already seen that the Bill under Section 5(v) has provided for ample scope for land acquisition to be made by the Govt for private companies and that too covered under the rubric 'public purpose'. But it is well known that the public purposes and Company's purposes are altogether different from each other. As the Supreme Court said, a declaration under Section 6 can't be for both at the same time. And that is why, Part-VII of the principal Act has been exclusively devoted to the treatment of land acquisition for companies as distinguished from the land acquisition for public purposes. Moreover, to operationalise the provisions under Part-VII, the Land Acquisition (Companies) Rules, 1963 has been framed, and these Rules serve to a great extent as a safeguard against the arbitrary manner of land acquisition made by the Government in the interest of private companies. ***Thus there is no justification as to why the reference to Part-VII (Acquisition of Land for Companies) shall be omitted from the Section 6 of the principal Act.***

(I) From a reading of Section-13 of the Bill (determination of market value), it appears that the old method of computation of land value based upon the transactions of the past and/or the determination by the Collector has been retained. But the anti-displacement movements have always critiqued this method since it provides for a much lower price to be paid to the land loser in comparison to the land-price, which usually gets escalated in the wake of the announcement of a new project coming up in the area. ***So the Bill ought to provide for fixation of the land price to be based not upon the record of past transactions, but upon the current, escalated price level for the land in question that might have emerged following the announcement of the new project coming up in the area.***

(J) From a reading of Section-13 of the Bill (determination of market value), it again appears that the cut-off date for fixation of land price is implicitly maintained as 'at the date of the publication of the notification under Section 4(1)' [vide Section 11(1) of the

principal Act], which is a retrograde provision for the reasons explained in the above para. *It is therefore suggested to delete the above expression from Section-11 (1) of the principal Act.*

- (K) **From a reading of Section-13 of the Bill (determination of market value)**, it further appears that the Bill seeks to authorise a company to pay 50% of the amount of compensation in the form of shares or debentures to the land losers. The common people by and large are not conversant with this mode of payment. *It is therefore suggested that the provision for payment of compensation money to be made through shares and debentures be made optional, not a compulsory one.*
- (L) **From a reading of Section-14** it appears that the Bill contains a good provision for transparency of the entire acquisition proceedings including award of compensation to each individual by way of display before the public. But it is not clear as to the stage at which such transparency before the public shall be ensured. *It is suggested that the Bill ought to provide for transparency of the activities of the Government and that of the concerned Company right since the stage of selection of the project site prior to the notification under Section 4(1) of the principal Act upto the full payment of compensation and other R&R benefits to the displaced and affected families.*
- (M) **From a reading of Section-15 of the Bill** it appears that the old method of computation of the land price, which is based upon the record of past transactions, is retained fully. But as already pointed out above, the land price needs to be determined not on the retrospective, but on the prospective considerations. *It is therefore suggested to delete the proposed amendment in Section-15 of the principal Act and instead to incorporate a provision that bases the determination of land price on the criteria of prospective escalation of land price following the announcement of a new project in the concerned area.*
- (N) **From a reading of Section-16 of the Bill**, it appears that the emergency power under Section 17 of the principal Act as vested in the Collector for acquisition of any land bypassing the procedures laid down for issue of notice and declarations etc. as required under Sections 4 and 6 is retained fully. But there is a difference too. While the principal Act exercises the emergency power only for 'public purposes' (as distinguished from purposes of a company), the proposed amendment seeks to legitimise the emergency power for both public and company purposes. *It is therefore suggested that the Bill ought to ensure that the emergency power as mentioned under Section-17 of the Act is exercised only for 'public purposes' and not for the purposes of a private company.*
- (O) **From a reading of Part IIA (Establishment of the State Authority) and PART IIB (Establishment of the Authority for the Centre) covered under Section 17 of the Bill** i.e. Sections 17A to 17M it is not clear as to who shall be eligible to act as the Chairperson of the respective authorities at the State or Central level. It has been found from the past experience that where the retired Officers of the Government have been chosen to head commissions and authorities of the kindred type, they in course of their performance show a bias towards the officers involved as parties to a case. *It is therefore suggested that the Bill should provide for a retired judge to head the proposed authority at State or Central level, while appointing the retired officers as its members.*

(P) From a reading of Section 19(i) of the Bill it appears that the concept of market value as determined on the basis of cut-off date [the date on which the notice under Section-4(1) has been issued] is implicitly retained. Already we have seen above that this provision militates against the interest of the land losing families. *It is therefore suggested that the expression ‘market value of the land’ occurring in Section 23 of the principal Act should be redefined to mean the need for determining the value of the land on the basis of the prospective escalation of land price in the aftermath of the announcement of the project.*

(Q) The Section 21 of the Bill provides for the abolition of the Part-VII (Acquisition of Land for Companies) containing Sections 38 to 44B (both inclusive). This is objectionable. We have already seen that the present Bill has not done away with, and rather reinforced the need for land acquisition in favour of private bodies including companies [vide Explanation in the Section 5(v) of the Bill]. Needless to say, since the public purposes and company’s purposes are altogether different from each other, there must be separate procedure laid down for acquisition of land for private companies. In the framework of the existing LA Act, 1894 amended in 1984, the Part-VII consisting of Sections 38 to 44B enjoins upon the State to pursue a more rigorous and elaborate procedure to the satisfaction of both land losing families and the appropriate Government as a condition precedent to the acquisition of land by the Government in favour of the private companies. Now if the Part-VII of the principal Act along with its component Sections is abolished as suggested by the Bill, then the land acquisition for private companies shall be made in the same manner as it is done for public purposes. In the Para-15 of the above quoted judgement of the Supreme Court, it is clarified, “When a request is made by any wing of the State or a Government company for acquisition of land for a public purpose, different procedures are adopted. Where, however, an application is filed for acquisition of land at the instance of a ‘company’, the procedures to be adopted therefor are laid down in Part VII of the Act”. Moreover, the suggested abolition of Part-VII implies the automatic nullification of the Land Acquisition (Companies) Rules, 1963, which is again objectionable. The above quoted Supreme Court judgment in Para-16 maintained, “The Land Acquisition (Companies) Rules, 1963 for acquisition of land for the companies have been framed by the Central Government in exercise of its power under Section 55 of the Act”. As per Rule 4 of the said Rules, the appropriate Government needs to be satisfied in regard to certain matters before initiating acquisition proceedings. For the purpose the said Government shall direct the Collector to submit a report on a number of matters, such as (i) whether the company has made its best endeavour to find out lands in the locality suitable for the purpose of acquisition; (ii) whether the company has made all reasonable efforts to get such lands by negotiation with the persons interested therein on payment of reasonable price and such efforts have failed; (iii) whether the land proposed to be acquired is suitable for the purpose; (iv) whether the area of land proposed to be acquired is not excessive; (v) whether the company is in a position to utilise the land expeditiously; and (vi) whether the land proposed to be acquired is good agricultural land, and whether no alternative suitable site can be found so as to avoid acquisition of that land. To ascertain the facts about the above matters the Collector shall hold an enquiry, which shall include consultation with senior agricultural officer of the district regarding the status of the land in question, determination of the amount of compensation for the said land and company’s willingness to pay the said amount. After the above enquiry is held, the Collector shall submit his report to the Government and the latter shall forward the same to the Land

Acquisition Committee formed at the State level. It is mandatory that no declaration shall be made by the Government under Section 6 of the Act unless the consultation with the Committee has been held, enquiry report of the Collector considered, report if any submitted under Section 5-A of the Act taken into account and agreement between the Government and Company as required under Section 41 of the Act executed. The above judgement in its Para-17 emphasises, "When the State intends to proceed with the acquisition of land it must form an opinion that the lands which are going to be acquired are not good agricultural lands. The rules by and large lay down a statutory policy in that behalf and question of ignoring the same by the State does not arise". *Under the circumstances, when the Bill provides for an unbound scope for the State to acquire lands including agricultural lands in favour of private companies, the Part-VII of the principal Act and Land Acquisition (Companies) Rules, 1963 made there-under, which contain a number of countervailing safeguards against the possibility of a nexus between the concerned officers of the Govt and land requiring company to acquire the good agricultural land for profiteering purposes of a private company must not be abolished, but rather be further refined and reinforced to serve their avowed objectives.*

(R) From a reading of the Section 23(i) of the Bill it appears that the Bill denies altogether the need for making any separate rules to regulate the process of acquisition of land for private companies. This is objectionable. It stands to anybody's common sense that so long the present Bill accommodates the space for land acquisition for private companies, there ought to be and must be separate and well-defined procedures in place to govern the same. The above quoted judgment of Supreme Court has also emphasised such an imperative need in unequivocal terms. *Under the circumstances, the suggestion of the Bill to omit the first proviso to the sub-section (i) of Section 55 is devoid of any merit.*

10.8 Judgement on LA Act by Apex Court – a silver lining amidst dark clouds:

On 12th of October 2007 a two member Bench of Supreme Court (Justices S B Sinha and H S Bedi) delivered a judgement [*Vide Supreme Court Judgement Case No. Appeal (civil) 4843 of 2007, dated 12. 10.2007*] that has questioned the age-old practice of the State Governments who have been acquiring 'good agricultural land' for private companies albeit using the phrase 'public purpose'. Striking down acquisition of land for the 'Ganesha Project' of International Tractors Limited in village Chak Gujran by the Punjab government, the Bench laid down extensive guidelines, culling it out from the statutory rules. As for the background of the project, the ITL had entered into an agreement with Renault Agriculture, France, which holds 20% shares in ITL, for manufacture of hi-tech tractors to boost exports. The Punjab Government had issued the land acquisition notification saying establishment of the factory would contribute to the general welfare and prosperity of the whole community. But the Bench said: "When the state intends to proceed with the acquisition of land, it must form an opinion that lands which are going to be acquired are not good agricultural lands. The rules, by and large, lay down a statutory policy and the question of ignoring it by the state does not arise". "Good agricultural land", as per the Land Acquisition (Companies) Rules, 1963 means "any land which, considering the level of agricultural production and the crop pattern of the area in which it is situated, is of average productivity and includes garden or grove land". Based upon a reading of the said Rules, the Bench stipulated that whenever a company makes an application to the appropriate government for acquisition of any land, that government shall direct the District Collector to submit a report to it after satisfying that:

- The company made its best efforts to locate land in the locality suitable for acquisition.
- The company failed to acquire the land despite reasonable efforts to get such land by negotiations with the persons concerned on payment of reasonable price.
- The land proposed to be acquired is suitable for the purpose.
- The area proposed to be acquired is not excessive.
- The company is in a position to utilise the land expeditiously.
- Where the land proposed to be acquired is good agricultural land, and no alternative suitable site can be found so as to avoid acquisition of that land.

Where the proposed land is agricultural land, the court interpreting the Rules put the onus on the Collector to consult the senior agricultural officer of the district to ascertain whether it is "good agricultural land" or not. After doing so, the Collector is also to ascertain the approximate amount of compensation likely to be paid for the land and also whether the company offered a reasonable price or not in lieu of the said land.

In the said judgement the apex court also drew a distinction between land acquired by the government for public purposes and land acquired for a private company. It said, "The state is obligated to issue a notification clearly stating whether the acquisition is for a public purpose or for a company. A declaration is to be made either for a public purpose or for a company. It cannot be both." It emphasized, "When properties of citizens are being compulsorily acquired by a state in exercise of its power...the existence of public purpose and payment of compensation are principal requisites."

If we judge the role of State Governments including that of Orissa on the anvil of the above judgement of the Supreme Court, all of them would be found transgressors of the law. For instance, a notification under Section 6 of LA Act was published by Revenue Department of Government Orissa in Extraordinary Gazette No. 1664 dated 6 October 2005 for acquisition of private land for Alumina Refinery Project (project of a private company) in village Narayanpur under Thana Lanjigarh in Kalahandi district. The notification said, the land for this project was being acquired for 'public purposes'. It is strange, while the Act obligates the concerned Governmental authority to mention clearly and categorically whether the land sought to be acquired was for a public purpose or for a private company, all the notifications issued by Government of Orissa so far in respect of any project have shown the purpose of a private company as the public purpose. Even after the apex court delivered its landmark judgement showing the illegality in such arbitrary identification between private and public purposes, the Government of Orissa stubbornly sticks on to the old, untenable practice.

10.9 Controversy around Globalisation- A Brief Appraisal:

Some scholars like Arundhati Roy and Smithu Kothari and activists like Medha Patkar at national level and Prafulla Samantra and Sudhir Patnaik in Orissa for instance who have been taking an anti-displacement position are justified in one respect. That is, the displacement in the name of development has so far led to acute impoverishment of the displaced populations; even those sections of population who were not physically displaced suffered the brunt of ecological

degradation caused by the concerned project. At the same time there is no reliable evidence to support the claim of the ruling establishment that the fruits of such developmental projects have percolated to the people living down below. As has been strongly pointed out in course of this report, all public authorities that displaced the people as a part of their development agenda conspicuously failed to maintain a bare record of the people who were displaced and what was their status post displacement, let alone look after their resettlement and rehabilitation. Though agencies like Pollution Control Boards have existed since long to monitor and checkmate the pollution hazards, their role being highly dubious, the environmental problems have ever remained on the rise thanks to different development projects.

But this is one side of the story. There is a reverse side too. Despite so many negative fall-outs of the development projects, people in general want more and more development as manifest in their demand for more roads and railways, schools and hospitals, electricity and piped water, fertilizers and pucca houses etc. All these facilities to be made available to more and more people and in increasing quantity require to be produced on a larger and larger scale. For that purpose adequate number of factories and industries need to be set up, and it is a common sense that these production units shall have to be set up in locations where the constituent needs of an industry like raw materials, power, water and transport facility shall be made available easily and on a low-cost basis. In fact, if there is an over-rush of foreign and domestic capital magnates to an economically and industrially backward State like Orissa, it is because of its abundant richness in minerals, water resources and marine ports.

That the people everywhere want development and want it to take place fast is evidenced from spiraling prices of crude oil and crude ore, the two basic material stuffs for growth and development. Why their price shows a rising trend over the decades interrupted of course by short-run decline? It is because the products manufactured out of these basic stuffs are in increasing demand everywhere. It is for this reason that the capital magnates, be it Government itself as in China or capitalists as individuals or groups as in other places of the world are out on a spree of investment anywhere in the world where they can produce the finished good in largest quantity, in smallest time and cheapest rate. This is the quintessence of globalisation that is just sweeping the world from one end to the other making the time worn barriers of nationality and ethnicity, language and culture, politics and history crumble into pieces. This phase of global history though having originated as a response to the oil crisis of mid-seventies found its unrestrained blossoming in early 90s of the last century, more specifically speaking from 1991 the year of collapse of Soviet Union and formal close of the cold war era. The current phase can be likened to the period of great flux of global capital in mid-19th century as described by Karl Marx and Fredrick Engels in *Communist Manifesto (1948)*. Though Marx didn't use today's jargon 'globalisation' as such, his narrative of the phenomenon of a feverish cross-continental movement of capital and its inescapable transformational impact on the world civilization and mankind can find its befitting analogy in the current wave of globalisation. "The bourgeoisie cannot exist without constantly revolutionizing the instruments of production, and thereby the relations of production, and with them the whole relations of society... All fixed, fast frozen relations, with their train of ancient and venerable prejudices and opinions, are swept away, all new-formed ones become antiquated before they can ossify. All that is solid melts into air, all that is holy is profaned, and man is at last compelled to face with sober senses his real condition of life and his relations with his kind. The need of a constantly expanding market for its products chases the bourgeoisie over the entire surface of the globe. It must nestle everywhere, settle everywhere, establish connections everywhere. The bourgeoisie has, through its exploitation of the world market, given a cosmopolitan character to production and consumption in every

country. .. All old-established national industries have been destroyed or are daily being destroyed. They are dislodged by new industries, whose introduction becomes a life and death question for all civilized nations, by industries that no longer work up indigenous raw material, but raw material drawn from the remotest zones; industries whose products are consumed, not only at home, but in every quarter of the globe. In place of the old wants, satisfied by the production of the country, we find new wants, requiring for their satisfaction the products of distant lands and climes. In place of the old local and national seclusion and self-sufficiency, we have intercourse in every direction, universal inter-dependence of nations". (*Karl Marx and Fredrick Engels in Communist Manifesto, 1848*).

In their fancy to wish away 'globalisation' some observers give a symptomatic description of it as LPG (Liberalisation, Privatisation and Globalisation), as if LPG has been willfully engineered by some hired theorists sitting in World Bank, IMF or WTO to give intellectual backing to a group of megalomaniac billionaires who dream of erecting fabulous world-wide empires of trade overnight, and as if globalisation can be halted, defeated or even reversed by the conscious choice of nations and institutions. Nothing is farther from the truth than this wishful theorisation. Neither in sociology nor in political economy human volitions have a free rein; rather they are the typical outcome of the contemporary times and climes, and can only work and rework on the latter remaining within the broad contours of the existing epoch, and observing its historical parameters. In fact at a deeper level the globalization can be described as an accelerated movement across the globe of 3 M's (man, money and machine) or of LIC (Labour, Information and Capital).

Some anti-globalization enthusiasts use in their self-defense the name of Joseph Stiglitz of USA the one-time chief economist of World Bank who won Nobel Prize in 2001. He has been projected as an inveterate adversary of globalization. As we shall just see such a flat claim is blatantly false. Precisely speaking, for Stiglitz globalization is not only an irreversible, but also a potentially beneficial process for the entire mankind. As a matter of fact he is not critical of globalisation as such but of its mismanagement by the premier global institutions like World Bank, IMF and WTO.

In his masterpiece *Globalisation and its Discontents (2002)* Joseph Stiglitz pays a glowing tribute to globalisation in such words, "Opening up to international trade has helped many countries grow far more quickly than they would otherwise have done. International trade helps economic development when a country's exports drive its economic growth. Exported growth was the centerpiece of the industrial policy that enriched much of Asia and left millions of people there far better off. Because of globalization many people in the world now live longer than before and their standard of living is far better. . . . Globalization has reduced the sense of isolation felt in much of the developing world and has given many people in the developing countries access to knowledge well beyond the reach of even the wealthiest in any country a century ago. The anti-globalization protests themselves are a result of this connectedness. Links between activists in different parts of the world, particularly those links forged through Internet communication, brought about the pressure that resulted in the international landmines treaty despite the opposition of many powerful governments. Signed by 121 countries as of 1997, it reduces the likelihood that children and other innocent victims will be maimed by mines. Similar, well-orchestrated public pressure forced the international community to forgive the debts of some of the poorest countries. Even when there are negative sides to globalization, there are often benefits. Opening up the Jamaican milk market to U.S. imports in 1992 may have hurt local dairy farmers but it also meant poor children could get milk more cheaply. New foreign firms

may hurt protected state-owned enterprises but they can also lead to the introduction of new technologies, access to new markets, and the creation of new industries. Foreign aid, another aspect of the globalized world, for all its faults still has brought benefits to millions, often in ways that have almost gone unnoticed: guerrillas in the Philippines were provided jobs by a World Bank-financed project as they laid down their arms; irrigation projects have more than doubled the incomes of farmers lucky enough to get water; education projects have brought literacy to the rural areas; in a few countries AIDS projects have helped contain the spread of this deadly disease. ...” (Source: *Globalisation and its Discontents, 2002* by Joseph Stiglitz)

According to Stiglitz, globalisation if not managed properly can prove disastrous too. He writes, ‘Today, globalization is being challenged around the world. There is discontent with globalization, and rightfully so. Globalization can be a force for good: the globalization of ideas about democracy and of civil society have changed the way people think, while global political movements have led to debt relief and the treaty on land mines. Globalization has helped hundreds of millions of people attain higher standards of living, beyond what they, or most economists, thought imaginable but a short while ago. But for millions of people globalization has not worked. Many have actually been made worse off, as they have seen their jobs destroyed and their lives become more insecure. They have felt increasingly powerless against forces beyond their control. They have seen their democracies undermined, their cultures eroded. If globalization continues to be conducted in the way that it has been in the past, if we continue to fail to learn from our mistakes, globalization will not only not succeed in promoting development but will continue to create poverty and instability. Without reform, the backlash that has already started will mount and discontent with globalization will grow. This will be a tragedy for all of us, and especially for the billions who might otherwise have benefited. While those in the developing world stand to lose the most economically, there will be broader political ramifications that will affect the developed world too’. (Source: *Globalisation and its Discontents, 2002* by Joseph Stiglitz)

The main tenet of the powerful but controversial book ‘*Globalisation and its Discontents, 2002*’ by Joseph Stiglitz is simple, and goes something like this: pro-globalization policies have the potential of doing a lot of good, if undertaken properly and if they incorporate the characteristics of each individual country. Countries should embrace globalization on their own terms, taking into account their own history, culture, and traditions. However, if poorly designed—or if a cookie-cutter approach is followed, pro-globalization policies are likely to be costly. They will increase instability, make countries more vulnerable to external shocks, reduce growth, and increase poverty. The problem is that globalization has not been pushed carefully, or fairly. On the contrary, liberalization policies have been implemented too fast, in the wrong order, and often using inadequate or plainly wrong economic analysis. As a consequence we now face terrible results, including increases in destitution and social conflict, and generalized frustration. The culprits are the IMF and its “market fundamentalists,” the “Washington Consensus,” and the US Treasury. (Source: *Review of Joseph Stiglitz’s ‘Globalization and its Discontents’ by Sebastian Edwards University of California, USA, 9 Sept. 2002*).

Stiglitz’s faith that globalisation gone wrong can be set aright is the main theme of his latest book ‘*Making Globalisation Work*’ (2006). In fact he came to India and delivered a talk precisely under this caption at Chennai in a meeting organized by Hindu on 4 January 2007. In another interview, Stiglitz was categorical in saying, ‘Globalization can be made to work, and work in a way that the number of people in poverty are reduced. But it has not been working that way. These are among the central messages in my book (Making Globalization Work, 2006), where I

spell out a wide agenda of what needs to be done'. Giving an instance of how globalisation can be mismanaged, Stiglitz mentions, "We have the knowledge to deal with many of the diseases confronting the developing countries; but the Agreement on Trade-Related Aspects of Intellectual Property Rights (part of the Uruguay Round) was designed to make generic medicines less accessible. The result was that thousands are dying unnecessarily because they cannot afford the brand-name medicines". (*Source: Q & A with Joseph Stiglitz, 11 Oct. 2006, International Herald Tribune published by New York Times*)

In *Making Globalization Work* (2006) Dr. Stiglitz argues that strong, transparent institutions are needed to turn globalization to favour the world's poorest, and to address the democratic deficit that is so keenly felt across the world. He shows how an examination of incomplete markets can make corrective government policies desirable. *Making Globalization Work* is an optimistic book, offering the hope that global society has the will or the ability to address global problems and that international economic integration will ultimately prove a force for good.

Even well known statesmen from South have welcomed globalisation albeit sounding a note of alarm. Nelson Mandela of South Africa delivering his lecture at the British Museum on November 16, 2000 said, "We welcome the process of globalisation. It is inescapable and irreversible.... if globalisation is to create real peace and stability across the world, it must be a process benefiting all. It must not allow the most economically and politically powerful countries to dominate and submerge the countries of the weaker and peripheral regions. It should not be allowed to drain the wealth of smaller countries towards the larger ones, or to increase inequality between richer and poorer regions." (*Source: Nelson Mandela of South Africa in his lecture at the British Museum, London on November 16, 2000*)

The moot point therefore is not how to stop 'globalisation' which is unstoppable just as day following the night, or monsoons following the summer, but to see how best the people living in a region of the world can make best use of what is inevitable and what is irrevocable. Specifically speaking in the context of Orissa, our sole concern should be how to extract as much benefit as possible in the interest of the people in general and lower strata in particular from the magnates of domestic and foreign capital crazy to invest in the State. Simultaneously, we need to learn the art of attracting visitors from all over the world to our picturesque sea beaches, ancient temples, magnificent mountain ranges, majestic heritage sites, lush green forests, rare species of wildlife and dexterous filigrees and handicrafts. Trade is nobody's monopoly. Once we appropriate the true dynamics of globalisation and apply it creatively and confidently businesslike in respect of our natural resources such as mines and mountains, rivers and forests, faunas and fields, Orissa and its people can be enriched in no time like many other regions of the world and India. On another plane, by a creative and imaginative adoption of policy manoeuvres we can afford to change the direction of capital investment to such sectors that entail the least of displacement and eco-degradation which are the byproducts of a policy of rash industrialization.

10.10 Overall Findings of the present study:

In course of this Report we have surveyed extensively the findings of both official and non-official literature coupled with that of our own study on issues relating to development and displacement and examined them with special reference to Orissa and its tribal population. Now we can describe them as general features of the current scenario around development and displacement. The following list is not an exhaustive but an indicative one of such features:

- The development programmes pursued so far involving displacement have resulted in increased misery for the displaced populations.

- That the fruits of development have gone to the common mass of people including the marginal sections such as Advasis, Dalits, women and BPL households is doubtful.
- The planners and administrators were mostly concerned with carrying out the technical and physical aspects of the developmental projects and cared least for the people displaced and affected by them.
- Both the developmental projects and resettlement and rehabilitation efforts were planned from atop and thrust on the displaced populations.
- The State ensured the displacement and eviction of the people by using invariably strong arm methods with the help of police and administration.
- The prime law of land relating to displacement i.e. Land Acquisition Act, 1894 is one-sidedly focused on compensating the land owners only and affords no space for the landless labourers and sharecroppers who usually constitute the bulk of a village population facing displacement.
- Even this one-sided legislation i.e. LA Act has not been scrupulously followed in the matter of timely and adequate compensation to the land losers; the families displaced in 50s of last century are yet to be properly compensated.
- The PESA, 1996 that gives some sort of right to be consulted to Gram Sabha in the 5th Schedule Areas in the matter of land acquisition has been thrown into the wind as and when the Government and land acquisition authorities felt pleased to do so.
- The tribals, and then Dalits, women and rural and urban poor have become the worst victims of displacement and ecological damage caused by occupation of common property resources in course of the unplanned development programmes.
- Before EIA Notification 2006 came into force, the public hearings on EIA Reports of proposed projects used to be held secretly with ample scope for manipulating the reports of such hearings by a combined clique of officials and project proponents. After the new notification came into force, the administration has been making all efforts to scuttle its provisions so as to nullify its genuine intentions.
- Harmful ecological fall-outs of the new age projects (such as sponge iron industries) are severely felt for their impact on human and animal life, crops and their occupational activities.
- Unlike in the past when the displaced people felt shy of raising any protest or put forward a mild protest to displacement, they are growing more and more vocal about their rights and interests including ecological concerns; they are getting spontaneously organized around their issues even without any organizational or funding support from outside.
- The State with the help of its coercive wings is out to stamp out all manner of anti-displacement resistance by the people.
- In the face of growing resistance by the displaced and affected people, both Centre and State Governments are bringing out fresh legislations just to placate the aggrieved public. While some of these new legislations have to potential to serve as handy tools for advancing their anti-displacement campaign and for pressing for better deals for compensation and R&R, others are so much ridden with loopholes that the displaced people are bound to be cheated at the end of the day.
- The Government of Orissa's R&R Policy is not only exclusionary in respect of such marginalized sections as share croppers, daily labourers, artisans and homesteadless persons, but also replete with double talks and incongruities that ultimately nullify any positive gain for the displaced people.
- The recent policies of Government of Orissa such as Industrial Policy, SEZ Policy and Port Policy are all meant to facilitate the influx of private investment in the State and are indifferent to the interest of the displaced and affected populations.

- Under the formidable impact of surging people's movements against displacement, the apex court which used to completely side with all manner of state efforts for land acquisition in the past, seems to take a vacillating position, at times lambasting the Governments for their arbitrary and overzealous drive to acquire land in favour of private companies.

10.11 Issues and Concerns to be addressed to:

In course of our narrations and analyses spread in various chapters of this Report we have tried to articulate the issues and concerns that deserve to be addressed by the public authorities, civil society groups, corporate sector and above all the organizations of displaced and affected populations. These can be encapsulated into the brief propositions as follows:

- **Making available accurate and comprehensive database on land acquisition, displacement, compensation and resettlement & rehabilitation for each project past or ongoing through internet and other accessible media as mandated under National R&R Policy-2007;**
- **State to desist from its hitherto practiced manner of notification for land acquisition under Section 4 of LA Act 1894, that wrongfully equates the purposes of a private company to public purposes; the Supreme Court held such a practice illegal in its judgement on 12 Oct. 2007;**
- **The concept of selling away private or Govt land by the State to a private company for good using LA Act, 1894 must go and be replaced by a concept of conditional and time-bound lease voluntarily agreed upon by the land-holders and local inhabitants;**
- **The colonial practice of acquiring common property resources (briefly commons) for private companies without compensating the dependent populations must go; the present practice of not notifying the proposal and not inviting public oblic objections thereto in respect of acquisition of commons (so-called Government land) required for a private company must also go;**
- **The local people must have a lion's share of the money received by the Government out of sale/lease of the Government land/forests/mines/water sources (so to say, common property resources) to private/foreign companies;**
- **Signing of an MoU between Government and a private company involving land acquisition, displacement or eco-hazards must be preceded by the informed consent of the concerned populations, especially in Fifth Schedule areas as warranted under PESA, 1996;**
- **Ensuring strict adherence to the spirit of the provisions relating to consultation with Gram Sabha prior to land acquisition for any developmental project and formulation of R&R package as required under PESA 1996;**
- **Scrapping of the inherently flawed Orissa RR Policy-2006 and introducing a new R&R Policy for the State incorporating the positive features of National Rehabilitation and Resettlement Policy, 2007, such as the provisions for rehabilitation of landless families, share-croppers and agricultural labourers, social impact assessment, ombudsman and an autonomous rehabilitation commission;**
- **Current TISCO model of R&R package at Kalinganagar, which is an outcome of prolonged and brave struggles by the local populations should be replicated elsewhere in case of other projects across the State;**
- **The Making transparent the deal between Government and private/foreign companies over both private and Government land to be acquired for the purposes of a Private Company as required under National R&R Policy-2007;**
- **Ensuring strict compliance to the letter and spirit of the laws existing at Central and State levels prohibiting the sale and transfer of tribal land to non-tribal persons under the cover of land acquisition for developmental projects;**

- The MoEF, Govt of India should issue environmental clearance for a project only after the objections raised in the Public Hearing are fully met and complied with both by the project proponent company and concerned Government as required under EIA Notification 2006;
- Irrigation waters, for which the farmers are paying user charges shouldn't be arbitrarily diverted by the Government to industrial or other non-agricultural purposes; If at all such a need becomes unavoidable, then such proposals need to be subjected to the public hearing of the concerned user population;
- Including representatives of associations of local resource users as members in the Technical Committees formed by the Government from time to time to assess the status of an old project (such as High level Committee on Hirakud, 2007);
- The land acquired for projects but not used over years be returned to the original land-holders or their successors;
- The pending compensation against land acquisition for all past projects should be paid forthwith to the displaced families as mandated in the Scheduled Tribes and Other Forest Dwellers (Recognition of Forest Rights) Act, 2006 ;
- Drastic revision of lopsided Industrial Policy, Port Policy and other related policies of the State to suit the holistic needs of the State and its people to be carried through a public debate;
- Undertaking a drastic revision of Orissa SEZ Policy-2003 in the light of concerns articulated by EGoM (Empowered Group of Ministers), Supreme Court judgement of 12 October 2007 and moreover keeping in view the positive and negative lessons from across the States.

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- *Review of Joseph Stiglitz's 'Globalization and its Discontents' by Sebastian Edwards University of California, USA, 9 Sept. 2002*
- *Making Globalization Work by Joseph Stiglitz 2006*
- *Lecture by Nelson Mandela of South Africa at the British Museum, London on November 16, 2000*

Tables

Table 10.1

District-wise List of Major Resistance Movements in Orissa centring round Displacement & Related Issues: 1996-2006

Boxes

Box- 10.1:

Dalits, Tribals & Women protesting on land issues killed by Orissa Police during 1999-2006